

Contracting Officer's Representative Guidelines for Preventing Trafficking in Persons

The Contracting Officer's Representative (COR) can play an important role in preventing trafficking in persons (TIP). The following are suggested actions a COR can take, in conjunction with a Contracting Officer, to minimize the risk of TIP on a contract. CORs should review these guidelines with the Contracting Officer and use those techniques appropriate to their specific contract situation:

1. Pre-Solicitation:

- a. TIP Clause: Ensure contracts contain the required Trafficking in Persons clause, FAR 52.222-50 "Combating Trafficking in Persons". Contact the Contracting Officer if it is missing. Provide the clause in full text to ensure Contractors understand clause requirements if needed. Contracting Officers are responsible for including the clause in all contracts over the micro-purchase threshold.
- b. TIP Risk Assessment: Contact the trafficking in persons official, if designated, to assess the nature and level of TIP threats at the place of performance. Determine if the contract is at greater risk of TIP because of low wage labor, use of third country nationals, employer provided housing, or use of recruiters.
- c. Local Labor Law Assessment: Get information on local labor laws from Human Resources or other sources. Local labor laws may prevent a Contractor from charging workers for obtaining work permits, may require payment of minimum wages and benefits, may prevent outside, non-sanctioned employment, or may define acceptable conditions for employer furnished housing.
- d. Assess Contractor provided housing: Ensure solicitations include a requirement for Contractors to submit a housing plan when appropriate. Contact the Contracting Officer if the requirement is missing. Contracting Officers are responsible for including this requirement in solicitations when there is a potential for employer provided housing such as use of third country nationals.

2. Pre-Proposal Conference: The Contracting Officer should discuss the importance of TIP prevention and the requirements of the clause at the Pre-Proposal Conference if held. The COR can support the Contracting Officer in this discussion.

3. Post Award Orientation: Discuss the importance of preventing TIP in post award orientation. The Contracting Officer is responsible for leading the post award orientation with COR support. The requirements of the Combating Trafficking in Persons clause and Contractor efforts to comply should be an agenda item for every post award Contractor briefing. This ensures that all parties are aware of their responsibilities. The Contracting Officer should incorporate the following into the list of items on which the Contracting Officer briefs the Contractor during this orientation:

- a. Discuss the importance of preventing TIP: Advise the Contractor that TIP is a highly visible issue that the U.S. Government feels very strongly about.
- b. Zero tolerance policy: Tell the Contractor that Government has a zero tolerance policy. Every instance of trafficking will be examined and could result in termination of

employees or subcontractors, suspension of contract payments or contract termination.

- c. Brief employees: Insist that the Contractor brief employees on Trafficking in Persons prohibitions. This briefing should include the nature of trafficking, where it takes place, how to recognize it, the prohibition of the use of forced labor, and the importance of not procuring commercial sex which provides a financial environment for perpetuating TIP. Ask the Contractor for a copy of the briefing for the contract file.
 - d. No commercial sex: Explain that the Contractor should tell his or her employees that they cannot procure commercial sex. Stress that the Contractor must discipline any employee procuring commercial sex and should report the incident to the Contracting Officer. Contracting Officers will review incidents to determine if Contractor disciplinary actions are sufficient.
 - e. Contractor should provide adequate housing plan: Explain that Contractors who provide worker accommodations should ensure these accommodations meet local host nation labor and health laws and are clean and adequate. Contractors submitting a housing plan should promptly submit to the COR any material updates to the plan occurring during contract performance.
 - f. Withhold passports or visas: Tell the Contractor that they may not withhold employee passports or visas without employee permission because this may have the effect of preventing the free movement of employees who no longer want to work for the Contractor. It has the appearance of bonded labor which is prohibited.
 - g. Observe local labor laws: Contractors should understand the local labor laws. The Contractor should explain how they will keep abreast of changes in the laws.
 - h. Clear explanations for salary deducts: The Contractor should explain deductions from wages. Unexplained wage deductions may cause employees to owe more than they make and force them to work for the contractor to pay off debts.
 - i. Briefing subcontractors: TIP requirements also apply to subcontractors. Prime Contractors should brief subcontractors on TIP requirements and must flow the TIP clause down to subcontractors.
4. Contractor Monitoring:
- a. Verify the Contractor does not hold employees' passports and visas: Employee mobility may be severely limited if an employer holds the employee's travel documents. This activity may also be in violation of local labor laws. CORs should determine if the contractor is holding travel documents by interviewing employees during site visits to the work location.
 - b. Ensure the Contractor doesn't use work permits or physical force or threats to compel labor or obtain sexual activity: The COR should use locally engaged staff or others with knowledge of other languages to engage contractor employees who cannot communicate effectively in English in their own native language in order to determine if coercion or threats are being used.
 - c. Determine that the Contractor is knowledgeable about local labor laws: This assessment can be performed at the post award meeting and periodically through discussions with contractor management as work progresses. It is the Contractor's responsibility to obtain

this information from the host country, not the COR's.

- d. Verify that workers are informed about labor policies: Verification can be obtained through interviews with Contractor employees.
- e. Verify that the Contractor is providing advice of salary deductions through periodic review: Employees who are not informed on the nature of salary deductions may find themselves in situations similar to bonded labor by owing more than they make. Verify that employees have the information they need to understand salary deductions.
- f. Verify that the Contractor is briefing employees on the requirements of the Trafficking in Persons clause: This briefing is a requirement of the Trafficking in Persons clause. The COR should interview Contractor management as well as select employees to verify compliance. The COR should obtain a copy of the Contractor's briefing materials.
- g. Verify that the Contractor is briefing subcontractors and flowing the TIP clause down through subcontracts: Ask the Contractor to identify any subcontracts and show that the subcontracts contain the TIP clause. Have the Contractor provide a copy of briefing materials provided to subcontractors.
- h. Obtain information on employer furnished housing and periodically visit to assess adequacy: The adequacy of self selected housing is the responsibility of the employee. Employer furnished accommodations represent an expenditure of Government funds that should not be exploitative. Where housing is employer provided, particularly to third country national employees, CORs should obtain information on the location and nature of the housing. CORs will then better understand the Contractor's costs and should visit the housing periodically to ensure adequacy. Any concerns or requests for corrective action should be coordinated through the Contracting Officer to avoid any potential claims.
- i. Obtain information on Contractor violations: The Contractor is required to inform the Contracting Officer of any information that alleges a Contractor or subcontractor employee engaged in conduct that violates TIP requirements. CORs should communicate with the Contracting Officer on any compliance issues; and
- j. Audit support: CORs may work with their Contracting Officer to contract with an audit firm to assist in implementing TIP monitoring responsibilities.